

MINUTES

Meeting date: Monday, 1 November 2021

IN ATTENDANCE ONLINE

Members:

- Ashleigh Dunn
- Mike McCormick
- Tricia Stewart

Executive Team Members:

- Lorna Johnston (Executive Director)
- Richard Wilson (Caseworker)

ITEM	CONTENT	ACTION
STANDING ITEMS		
1.	<p>APOLOGIES Apologies were received from the Convener, Mr Paul Walker.</p> <p>DECLARATIONS OF INTEREST No declarations of interest were made.</p>	
2.	<p>MATTERS ARISING Members noted that all matters arising were either complete or were due to be discussed either at the meeting or at the next one, scheduled to take place on 13 December 2021.</p>	
CONSENT ITEMS		
3.	<p>DRAFT MINUTE OF PREVIOUS MEETING Subject to some minor amendments, Members reviewed and approved the minute of the meeting on 27 September 2021.</p>	
4.	<p>CODE OF CONDUCT FOR STANDARDS COMMISSION MEMBERS Members noted that they were due to undertake a review of the Code of Conduct for Standards Commission Members, which was based on the Model Code of Conduct. Members agreed to postpone the review of their Code until after the revised Model Code had been issued in early December 2021.</p>	Executive Team
STRATEGIC MATTERS		
5.	<p>ETHICAL STANDARDS COMMISSIONER Members noted the Acting Ethical Standards Commissioner (ESC) had published both his Annual Report for 2020/21 and the outcome of an independent investigation commissioned to consider a how a complaint about a councillor, made to his office before his appointment, had been handled. Members noted that the issues raised in the independent report were significant and that the independent consultants had found substantial failures in respect of the ESC's statutory duties and in the handling of the complaint. Members further noted that the Acting ESC had identified, in his Annual Report, areas of concern in respect of governance and stakeholder engagement. The Acting ESC had recognised, the Standards Commission had been obliged to issue statutory directions in 2020/21, in order to obtain assurance that then ESC was fulfilling her investigative functions effectively and in accordance with governing legislation.</p> <p>Members were pleased to note both that the Acting ESC had already taken action to address the various issues identified in both reports and that the Standards Commission was continuing to have positive and meaningful engagement with him and his team. Members nevertheless remained concerned about the ESC's failure to comply with both her statutory duties and the directions issued by the Standards Commission. Members noted that this</p>	

	<p>failure had not only had a significant adverse impact on service users and stakeholders but had also caused damage in terms of the efficacy and reputation of the ethical standards framework as a whole. Members agreed, therefore, that the Convener should send the SPCB a letter seeking confirmation that this failure would be addressed, and that steps would be taken to ensure that the performance and conduct of appointed officeholders could be monitored and managed appropriately in future.</p>	Convener
6.	<p>EXECUTIVE TEAM'S ROLES</p> <p>Members noted that the expanded Executive Team had been in place for some six months, with both the Caseworker and Office Manager having completed their probationary periods. Members reviewed an updated key person dependency risk analysis and were pleased to note that a significant number of risks had been downgraded in light of the changes to the Executive Team. In particular, Members agreed that the extra capacity and experience provided by the introduction of the Caseworker role meant that the risk associated with the provision of legal and procedural advice to the Standards Commission and to its Hearing Panels, in relation to their adjudicatory role, was significantly reduced.</p>	Executive Team
BUSINESS MATTERS		
7.	<p>BUDGET V EXPENDITURE REPORT QUARTER 2</p> <p>Members noted the report on expenditure against budget for the period from 1 April 2021 to 30 September 2021.</p> <p>Members noted that the expenditure to date had been approximately 3% lower than the projected budget as, to date, only three Hearings had been held in the year. Members noted, however, that it was forecast that the overall expenditure for the year would nevertheless be as anticipated due to the likely expenditure on Hearings in the forthcoming months.</p>	Executive Team
8.	<p>GUIDANCE ON THE REVISED CODES OF CONDUCT</p> <p>Members noted that the revised versions of the Councillors' and Model Code of Conduct for Members of Devolved Public Bodies had been laid before the Scottish Parliament on 2 September 2021 and scrutinised, respectively, by the Local Government, Housing and Planning and the Standards, Procedures and Public Appointments Committees. Both Codes had been approved by the Parliament on 27 October 2021.</p> <p>Members noted that the Executive Team had prepared and consulted on draft Guidance on both Codes. Pending the addition of a few minor points, final proofreading and formatting, the Guidance would be ready to be issued along with the revised Codes in early December 2021. Members noted that it was intended that the Guidance be made available in three different formats; being:</p> <ul style="list-style-type: none"> • Complete standalone versions of the Guidance; • Complete versions of the Guidance with the Codes embedded; and • Section by section versions of Guidance with the Codes embedded. <p>Members noted that the Executive Team had revised the Standards Commission's Advice Notes for councillors and members of devolved public bodies, in light of the changes to the Codes. The intention was to issue and publish these in tandem with the revised Guidance and Codes, in early December.</p> <p>Members further noted, the Executive Team was working with the Improvement Service on a project to develop some interactive material on certain aspects of the Codes. Members asked the Executive Team to keep them updated on this project.</p>	Executive Team
9.	<p>UPDATE ON RECORDS MANAGEMENT PLAN REVIEW</p> <p>Members noted that the Keeper of the National Records of Scotland had invited the Standards Commission to undertake an internal self-assessment of its agreed Records Management Plan (RMP). Members noted that the Executive Team was in the process of reviewing and updating the RMP and its supporting documents, with a view to submitting a</p>	

	<p>progress update review to the Keeper's Assessment Team by the end of November 2021. Members asked the Executive Team to provide them with an update once the self-assessment review form had been submitted and assessed.</p>	Executive Team
10.	<p>LEARNING POINTS FROM RESPONSE TO CORONAVIRUS PANDEMIC</p> <p>Members noted that the internal auditor had recommended, in his report for 2020/21, that the Standards Commission should investigate any potential benefits identified from its response to Covid-19 pandemic by way of a lessons learned report.</p> <p>Members reviewed the lesson learned report prepared by the Executive Team and agreed the following:</p> <ul style="list-style-type: none"> • To hold five of the 10 Standards Commission's yearly meetings and all meetings of its Human Resources Committee and the Audit & Risk Committee online, in order to reduce our carbon footprint and to save resources, both in terms of Members' travel costs and travel time. Members agreed, nonetheless, that there was value on holding the remaining five Standards Commission meetings in person, as it was considered that doing so would improve engagement and team-working, and assist with the development of effective relationships. • The current practice of communication between Members and staff by email, telephone and in online meetings only should continue. It was agreed that Members should continue to be sent regular reminders about complying with the Standards Commission's document retention and disposal policies. • Where possible, and subject to Covid advice, the Standards Commission would hold Hearings in person in all cases, other than in ones where there was little dispute between the parties as to the facts of the matter, the alleged breach was accepted by the Respondent and where no witnesses (other than the Respondent) were to give evidence (where the suitability of an online Hearing would be explored). The possibility of livestreaming the Hearing on the Standards Commission's website would always be explored, even if a Hearing was to be held in person. • In order to reduce costs and travel, pre-Hearing meetings would continue to be held online. • Decisions about whether to hold training events, workshops and meetings with stakeholders online or in person would be made on a case by case basis, depending on nature of the event, the potential number of attendees and the desired level of participation. • The Executive Team and Human Resources Committee would undertake a review of the hybrid working arrangements, being introduced for staff, in quarter two of 2022/23. 	Executive Team / Human Resources Committee
11.	<p>UPDATE ON MEMBER RECRUITMENT</p> <p>Members noted that the Scottish Parliamentary Corporate Body (SPCB) had begun the recruitment of a new Member. Members noted that the closing date for applications was 15 November 2021 and that the SPCB intended to hold interviews on 6 December 2021. Members asked the Executive Team to keep them updated on progress.</p>	Executive Team
12.	<p>OUTCOME OF APPEAL ON LA/R/2257 & 2262</p> <p>Members noted that the Sheriff Principal, who had heard an appeal made by the Respondent in case LA/R/2257 & 2262 against the Standards Commission's decision to disqualify him as a councillor for 16 months, had issued his determination on 21 October 2021. Members were pleased to note that the Sheriff Principal had rejected the appeal in entirety and had awarded expenses in the Standards Commission's favour.</p> <p>Members noted that the Sheriff Principal had found that:</p> <ol style="list-style-type: none"> 1. The decision to disqualify was an entirely reasonable one for the Standards Commission's Hearing Panel to have taken, given its findings about the Appellant's conduct and his previous history of contraventions of the Code (and sanctions imposed). 2. It was proper for the Panel to have regard to the Standards Commission's Sanctions Policy. There was support for the proposition that limited participation in the 	

	<p>investigation / adjudication process was a valid factor for the Panel to have had regard to when assessing sanction. The Sheriff Principal had also outlined the other factors relevant to the Panel's assessment of sanction in the context of possible re-offending.</p> <p>3. It was clear from the governing legislation that the Scottish Parliament anticipated that a disqualification could have the effect of preventing a councillor from contesting a future election. The Standards Commission's written decision had properly set out the basis upon which the Panel had regard to the impact of the local government elections due to be held in May 2022.</p> <p>4. The manner in which the written decision was drafted was analogous to published guidance on sentencing, which include considerations such as seriousness of offence, mitigating factors, aggravating factors and considered conclusion. The Sheriff Principal detected no error in that approach.</p>	
CASES UPDATE		
13.	<p>REPORTS FROM THE ESC & SECTION 14 LETTERS</p> <p>Members noted that, other than the report on the case at item 14(d) below, no reports or Section 14 letters had been received.</p>	
14.	<p>CASES</p> <p>(a) LA/AC/3495: Members noted that an online Hearing took place on 5 October 2021. The Hearing Panel found that the Respondents had not breached the Councillors' Code of Conduct.</p> <p>(b) LA/PK/3477: Members noted that an online Hearing took place on 18 October 2021. The Hearing Panel found that the Respondent had not breached the Councillors' Code of Conduct.</p> <p>(c) LA/AC/3497: Members noted that a report had been received from the Acting ESC on 13 October 2021 and a Hearing scheduled to take place on 6 December 2021.</p> <p>(d) LA/AN/3520: Members noted that a report had been received from the Acting ESC on 28 October 2021. Having reviewed the report, Members determined that it was not in the public interest or proportionate to hold a Hearing on the complaint. Members asked the Executive Team to prepare and issue a written decision outlining the reasoning for this determination.</p>	Executive Team
15.	<p>INVESTIGATION EXCEED 3 MONTHS – INTERIM REPORT</p> <p>(a) LA/E/3542: Members noted the contents of a report from the Acting ESC advising that an investigation into a complaint about a councillor had taken more than three months.</p>	
16.	<p>FEEDBACK INCLUDING ANY HEARINGS SURVEY RESPONSES</p> <p>Members noted the feedback received on Hearing LA/AC/3495 (4 responses). Members agreed that a suggestion made by one resposdee, to the effect that the Standards Commission should outline its overall determination at the start of its written decisions on Hearings, should be implemented. Members asked the Executive Team to amend the written decision template accordingly.</p>	Executive Team
AOB		
17.	<p>MONITORING OFFICERS' WORKSHOP</p> <p>Members noted there had been a good turn-out at the Monitoring Officers' workshop, held both in person and online on 25 October 2021, and that positive feedback had been received from attendees. Members agreed that the Executive Team should circulate notes of the issues raised and suggestions made to all individuals who had been invited to attend.</p> <p>REGIONAL ROADSHOWS</p> <p>Members agreed to hold four regional roadshows on the Councillors' Code of Conduct in 2022. Members agreed that two roadshows on the revised Code would be held in the February and March, with a further two later in the year after new Members elected in the</p>	Executive Team

	<p>May election had been inducted and had gained some experience in the role. Members asked the Executive Team to identify potential dates for the first two roadshows.</p> <p>PREPARATION MEETING FOR WORKSHOP FOR CHAIRS OF DEVOLVED PUBLIC BODIES Members noted that the online meeting arranged for them to undertake preparation work for the workshop with Chairs of devolved public bodies, scheduled to take place on 24 November 2021, had been cancelled. Members asked the Executive Team to reschedule the preparation meeting so that they could discuss and agree the content for the Convener’s presentation and discussion topics for the breakout groups at the workshop.</p> <p>AGENDA ITEMS FOR NEXT MEETING Members agreed to advise the Executive Director of any further items to be added to the agenda for the next meeting.</p>	<p>Executive Team</p> <p>Executive Team</p> <p>Members</p>
<p>18.</p>	<p>2021 WORKPLAN Members noted the planned activities.</p> <p>DATE OF NEXT MEETING Members noted that the next meeting of the Standards Commission was scheduled to take place on Monday, 13 December 2021.</p>	